

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT GREENEVILLE

UNITED STATES OF AMERICA)
)
V.) No. 2:09-CR-05
)
LYNCE P. FOSTER)

REPORT AND RECOMMENDATION

The defendant has filed a motion for dismissal of indictment based upon “reckless and/or misrepresented testimony by Agent Greg Moore” before the federal Grand Jury. (Doc. 65).

Defendant’s motion was referred to the United States Magistrate Judge under the standing orders of this Court and pursuant to 28 U.S.C. § 636(b). A hearing was held on November 18, 2009.

There was no testimony, evidence, or even argument presented at the hearing on this motion from which it could be concluded that Agent Moore testified falsely or recklessly before the Grand Jury. In fact, argument suggested quite the contrary, even to the extent that the United States stated its intent to seek a superseding indictment to charge an additional firearm.

It is recommended that defendant’s motion for dismissal of indictment (Doc. 65), be denied.¹

Respectfully submitted,

s/ Dennis H. Inman
United States Magistrate Judge

¹Any objections to this report and recommendation must be filed within ten (10) days of its service or further appeal will be waived. 28 U.S.C. § 636(b)(1)(B) and (C). *United States v. Walters*, 638 F.2d 947-950 (6th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140 (1985).